



## I N D E X

30(b)(6) REPRESENTATIVE MICHELLE CORDOVAEXAMINATION

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PLAINTIFFS' DEPOSITION EXHIBITS

No.		Page
1	"Plaintiffs' Amended Notice of F.R.C.P. 30(B)(6) Corporate Deposition(s) of Defendant Swift Transportation Corporation (eight pages)	8

RECESSES

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(Recess at 11:15 a.m.; resumed at 11:32 a.m.)	36	3
(Recess at 11:50 a.m.; resumed at 12:00 p.m.)	48	22

1 BE IT REMEMBERED that the deposition of  
2 the Swift Transportation Corporation 30(b)(6)  
3 Representative MICHELLE CORDOVA was taken at the  
4 offices of Snell & Wilmer, L.L.P., One Arizona Center,  
5 400 East Van Buren Street, Suite 1900, in the City of  
6 Phoenix, County of Maricopa, State of Arizona, before  
7 WANDA J. CURRY, a Certified Reporter, Certificate  
8 No. 50366, in and for the State of Arizona, on the  
9 14th day of September, 2012, commencing at the hour of  
10 10:31 a.m., on behalf of the defendant in a certain  
11 cause now pending in the United States District Court,  
12 in and for the District of Arizona.

13 APPEARANCES:

14 For the plaintiffs (telephonically):

15 Stumphauzer, O'Toole, McLaughlin, McGlamery &  
16 Loughman Co., L.P.A.

16 MATTHEW A. DOOLEY, ESQ.

17 ANTHONY R. PECORA, ESQ.

17 DENNIS M. O'TOOLE, ESQ.

5455 Detroit Road

18 Sheffield Village, Ohio 44054

440-930-4001

19 For the defendant:

20 Snell & Wilmer, L.L.P.

21 BRIAN J. FOSTER, ESQ.

JOSEPH A. KROEGER, ESQ.

One Arizona Center

22 400 East Van Buren Street, Suite 1900

Phoenix, Arizona 85004

23 602-382-6000

1 (The witness was duly sworn.)

2 MR. DOOLEY: And just so we have a clear  
3 record, Brian or Joe, could we have an accounting of  
4 who's with you there, both in person and perhaps on the  
5 phone?

6 MR. FOSTER: Okay. On our end, it's  
7 Brian Foster and Joe Kroeger and then the witness.

8 MR. DOOLEY: All right. And we have Dennis  
9 O'Toole, Anthony Pecora and myself here, all in person.

10

11 MICHELLE CORDOVA,  
12 called as a witness herein, having been first duly  
13 sworn to tell the truth, the whole truth, and nothing  
14 but the truth, was examined and testified as follows:

15

16 EXAMINATION

17 BY MR. DOOLEY:

18 Q. Ms. Cordova, how are you doing this morning?

19 A. Good, thank you.

20 Q. Would you state your full name for the  
21 record, please?

22 A. Michelle Cordova.

23 Q. Thank you.

24 MR. DOOLEY: And before we get into the line  
25 of questioning that brings you back today, I do have

1 one housekeeping matter that relates to a dispute about  
2 the scope of this deposition.

3 And Joe and I had a conversation this morning  
4 about the continuation of this deposition subject to  
5 the plaintiffs' right to seek a remedy for the issues  
6 raised during the meet-and-confer conference this  
7 morning that would include Swift's objection to  
8 topic 11 as well as topics 17 through, I believe, 29.  
9 The understanding being that we would go forward today  
10 on topics 3, 4, 6 and 13, subject to raising that  
11 dispute later with the courts. Swift not using waiver  
12 as a position or argument in that dispute.

13 Do I have that correct?

14 MR. FOSTER: Yeah.

15 No, basically everybody is reserving all of  
16 the objections and arguments that have been made in the  
17 numerous emails and other transmissions that have gone  
18 back and forth. That's -- that's our position. Both  
19 sides have reserved all of their legal arguments and  
20 positions.

21 And frankly, whether we had an agreement on  
22 the record or not, that would be the state of things  
23 anyway.

24 MR. DOOLEY: Okay. All right.

25 Q. BY MR. DOOLEY: Ms. Cordova, I believe you

1 may recall meeting me. I didn't question you but I was  
2 with Mr. Bennett during your deposition on August the  
3 1st of 2012. And during that deposition, you were  
4 questioned regarding your personal knowledge of certain  
5 events; do you remember that?

6 A. Yes.

7 Q. And you remember that we had a couple of  
8 ground rules that day that included answering verbally  
9 as opposed to head nods or things of that nature and  
10 you also agreed that if a question was asked that was  
11 vague or confusing to you that you would let  
12 Mr. Bennett know. Do you remember that?

13 A. Yes.

14 Q. The same ground rules would apply today.

15 And I've asked the court reporter to please  
16 transcribe not only the verbal communications but the  
17 non-verbal communications that may or may not take  
18 place. She's agreed to do that. I'm not there to see  
19 you, so unfortunately all I'll be left with is a  
20 transcript. But those same ground rules will apply.

21 There may be a question that's asked and  
22 objected to by your layer, Mr. Foster. If there is  
23 such a question, Mr. Foster is not attempting to  
24 communicate with you. He's attempting to communicate  
25 with me. And unless Mr. Foster instructs you not to

1 answer the question, I would ask that you proceed to  
2 answer it. Is that okay?

3 A. Yes.

4 Q. All right. You're here today -- or you're  
5 there today because a notice of deposition was served  
6 on Swift and asked Swift to produce a representative to  
7 answer questions on the company's behalf. You were  
8 designated as that person. Do you understand that?

9 A. Yes, I do.

10 Q. Your answers that you provided in your  
11 deposition on August the 1st pertain to your personal  
12 knowledge. Your answers today are intended to pertain  
13 to the company's knowledge about the questions that are  
14 asked. Do you understand that?

15 A. Yes.

16 MR. FOSTER: And just -- this is Brian --  
17 just so the record is clear, she's here as the  
18 representative of Swift Transportation Company of  
19 Arizona, L.L.C.

20 MR. DOOLEY: Thank you, Brian.

21 Q. BY MR. DOOLEY: Ms. Cordova, I provided,  
22 prior to beginning this deposition this afternoon here  
23 and this morning there, a copy of plaintiffs' amended  
24 notice of 30(b)(6) corporate deposition. I provided  
25 that to Mr. Kroeger with the understanding I would use

1 that as an exhibit. Do you have a copy of that?

2 A. Yes.

3 MR. DOOLEY: And I'd ask the court reporter  
4 to mark that as an exhibit, please.

5 That will be Plaintiffs' Deposition  
6 Exhibit 1.

7 (Plaintiffs' Deposition Exhibit 1 was marked  
8 for identification.)

9 COURT REPORTER: It's been marked.

10 MR. DOOLEY: Thank you.

11 Q. BY MR. DOOLEY: Ms. Cordova, do you recognize  
12 Plaintiffs' Exhibit 1?

13 A. Yes, I do.

14 Q. Can you tell me when you first saw  
15 Plaintiffs' Exhibit 1?

16 A. Approximately a week and a half to two weeks  
17 ago.

18 Q. Okay. And do you recall who provided you  
19 with a copy of Plaintiffs' Exhibit 1?

20 A. Yes.

21 Q. Who provided that to you?

22 A. Brian Foster and Joe Kroeger.

23 Q. Okay. And did you review it at the time it  
24 was given to you?

25 A. Yes.



1 Q. Did you review it with anyone from Swift?

2 And when I say "Swift," Ms. Cordova, I'm  
3 saying Swift Transportation Corporation of Arizona,  
4 L.L.C.

5 A. No.

6 Q. Have you, since that time, reviewed this  
7 Plaintiffs' Exhibit 1 with anyone other than Brian or  
8 Joe or any lawyer at Snell & Wilmer?

9 A. No.

10 Q. Please take a --

11 MR. FOSTER: Hey, Matt --

12 MR. DOOLEY: Go ahead.

13 MR. FOSTER: -- just so the record is clear,  
14 the exhibit that's been marked as Exhibit 1, she  
15 probably saw for the first time in the last day or  
16 two. I'm sure she was talking about your original  
17 deposition notice.

18 MR. DOOLEY: Okay, Brian. Let me -- let me  
19 clear that up, then. Thanks for raising that.

20 Q. BY MR. DOOLEY: Michelle, would you take a  
21 look at the top of the page, any of the pages, where it  
22 says page 2:11-cv. Do you see that?

23 A. Yes.

24 Q. "Document 82," is that the copy that you have  
25 in front of you?

1 A. Yes, it is.

2 Q. All right. Turn to page 5, where it says  
3 "Exhibit 'A.'"

4 A. I'm there.

5 Q. All right. Do you see numbers 1 through 16?

6 A. 1 through 16 on page 5?

7 Q. 1 through 16 is pages 5, 6 and 7.

8 A. Yes, I do.

9 Q. All right. And you'll notice that some have  
10 strike-throughs and some have some italicized text next  
11 to them. Do you see that?

12 A. Yes.

13 Q. All right. Ignore the strike-throughs and  
14 ignore the italicized text and review numbers 1 through  
15 16 and confirm with me that you saw those topics  
16 sometime a week and a half to two weeks ago.

17 A. Yes, I did.

18 Q. All right. Did you have an understanding  
19 when you reviewed this that you would be asked  
20 questions about these topics and would be expected to  
21 give testimony on behalf of Swift Transportation  
22 Corporation of Arizona, L.L.C.?

23 A. Yes.

24 Q. All right. I'd like you to take a look at  
25 number 3. Do you see number 3 on page 5?

1 A. I do.

2 Q. Just take a second and read it, if you  
3 would.

4 A. Would you like me to read that out loud or to  
5 myself?

6 Q. To yourself is fine.

7 A. Okay. I did.

8 Q. All right. I want to know, Ms. Cordova, what  
9 you did to prepare to answer questions regarding that  
10 topic.

11 A. I met with the attorneys -- the Swift  
12 attorneys, I spoke to Swift employees, and basically  
13 used my own knowledge of -- I've been employed with  
14 Swift Transportation for 15 years.

15 Q. And sitting here today, what is your official  
16 job title?

17 A. Regional Recruiting Leader for the West  
18 Coast.

19 Q. And if I understand correctly, you have a  
20 counterpart on the East Coast; correct?

21 A. Yes.

22 Q. And during your 15 years with Swift, you have  
23 not always held that position; correct?

24 A. That is correct.

25 Q. Can you tell me the Swift employees with whom

1 you spoke to prepare to answer questions about topic 3?

2 A. I spoke to Angelica Flores, Shawn Driscoll,  
3 Jim Pope, Amy Gruver and Nicole Burleson.

4 Q. Okay. Ms. Cordova, had you brought any notes  
5 with you today to help you recall any of these events?

6 A. No.

7 Q. After you spoke with those individuals and  
8 after you spoke with your counsel, were you able to  
9 formulate a number, on behalf of Swift, for the  
10 applicants who were denied employment by Swift based in  
11 whole or in part on information contained in a consumer  
12 report each year from 2006 through 2012?

13 A. No. And in -- within Swift Transportation,  
14 we -- we do not decline individuals based on the  
15 third-party information received from a consumer  
16 report.

17 Every individual is given an interview. And  
18 during that interview, they self-disclose information  
19 firsthand on the areas that we're discussing. So based  
20 on the information that we receive from the applicant  
21 is how the decision is made whether we will pursue the  
22 hiring or whether we decline them.

23 Q. Okay. Thank you for that.

24 And that leads me, I think, to maybe switch  
25 topics a bit. I want you to look at topic 6. Read

1 that to yourself, please.

2 A. Okay. I've read it.

3 Q. Thank you.

4 My understanding of the "technological and  
5 record-keeping ability" is something like this -- and  
6 I'm going to ask you to tell me if I'm right or wrong  
7 and I'm going to go through this step by step -- an  
8 applicant can apply by non-in-person means, for  
9 example, online or by phone, and an application will be  
10 generated in Swift's database; correct?

11 A. Yes.

12 Q. And that application, on its face, may have  
13 information that is disqualifying, based upon Swift's  
14 hiring criteria; correct?

15 A. "On its face"? Can you elaborate? Are you  
16 referring to the application that the applicant placed  
17 in the application?

18 Q. Sure.

19 What I'm asking is an applicant can fill out  
20 the application and he may not be old enough or he may  
21 not have the requisite experience or he may  
22 self-disclose a criminal record that, on its face, is  
23 inconsistent with Swift's hiring guidelines; correct?

24 A. Yes.

25 Q. Okay. And if that's the case, the

1 application does not proceed any further in Swift's  
2 review process; correct?

3 A. That's correct. If the individual clearly  
4 does not meet hiring guidelines, DOT guidelines, then  
5 there is no reason to move forward.

6 Q. And that application would then be segregated  
7 from the group of applications? It would be moved into  
8 a different place for record-keeping purposes; correct?

9 A. When you talk about the "database," what  
10 database are you referring to?

11 Q. Sure.

12 I understand that Swift has used a number of  
13 different databases. There's App Manager; correct?

14 A. That's correct.

15 Q. And would you please give me the time period  
16 when Swift used App Manager?

17 A. We began using Application Manager in March  
18 of 2011.

19 Q. And you use that presently; correct?

20 A. Yes.

21 Q. And that's maintained by a third party called  
22 Randall-Reilly; correct?

23 A. Yes.

24 Q. And prior to using App Manager, Swift used  
25 something called Workflow; correct?

1           A.     No.   We currently use Workflow and we did use  
2   Workflow prior to, but that was not the actual web --  
3   the web application system.   The system that we were  
4   using prior to Application Manager was -- we refer to  
5   it as Web App.

6           Q.     Web App?

7           A.     Yes.

8           Q.     And when did you use the Web App system?

9           A.     We used the Web App system since 2006.   I  
10   believe it was -- we created it around 2001.

11          Q.     And the Web App system had a function to  
12   segregate applications that were not, on their face,  
13   from qualified applicants; correct?

14          A.     The Web App system?

15          Q.     Yes, ma'am.

16          A.     If you -- if you -- on the -- in the Web App  
17   system, if you were going to consider the applicant  
18   that you were looking at face value, that that  
19   individual qualified just based off of the basic  
20   requirements, you would move it into our Contact  
21   Management system.   From Contact Management, it was  
22   also in Workflow.   And that was used up until March of  
23   2011.

24                 If you were not interested and if the  
25   individual did not meet DOT guidelines or hiring

1 qualifications, that application was not moved over  
2 into our system.

3 Q. Okay. So those applications from applicants,  
4 taken at face value, who met hiring criteria using  
5 App Manager would have been moved into the content  
6 management -- or Contact Management system; correct?

7 MR. FOSTER: Object to the form, misstates.

8 Q. BY MR. DOOLEY: Why don't I rephrase it so we  
9 have a nice, clear record?

10 An application that was going to be further  
11 considered during the era of App -- or Web App would  
12 have been moved over to the Contact Management system;  
13 correct?

14 A. Yes.

15 Q. And those applications that were not moved  
16 over, is there a name for the database or the holding  
17 pen where those applications were stored?

18 A. They remained in Web App.

19 Q. And when Swift changed from Web App to  
20 App Manager, were those old applications merged into  
21 the new App Manager database?

22 A. No.

23 Q. Did Swift keep them?

24 A. They remained within the database, the  
25 Web App database.



1 Q. And the Web App database is archived at  
2 Swift?

3 A. Yes. We no longer use it.

4 Q. But it's maintained by the company in some  
5 fashion; correct?

6 A. Yes.

7 Q. Now, those individuals that would be in that  
8 category of applications that were not, when taken at  
9 face value, satisfactory under Swift's guidelines,  
10 those individuals would not have been subject to a  
11 consumer report; correct?

12 A. I'm sorry, can you repeat your question?

13 Q. Sure.

14 Would Swift obtain a consumer report about  
15 applicants when the application, taken at face value,  
16 did not meet Swift's hiring guidelines?

17 A. During -- on the web application?

18 Q. We'll start with the web application, so  
19 between 2006 and March of 2011.

20 A. No. If we were not going to consider them as  
21 an applicant, we did absolutely nothing with the  
22 application. Therefore, we would not order any type of  
23 record.

24 Q. Okay. And so the record would only be  
25 ordered -- well, strike that.

1           When the application, during 2006 through  
2   March of 2011, was moved to the Contact Management  
3   system, would someone from Swift contact the applicant?

4           A.    Yes.

5           Q.    And there would be further questioning of the  
6   applicant regarding the answers he or she gave on the  
7   application; correct?

8           MR. FOSTER:  Let me -- let me object here a  
9   second, Matt.  I think you're going way beyond --

10          MR. DOOLEY:  You're going to argue scope,  
11   aren't you, Brian?

12          MR. FOSTER:  Yeah, the scope of number 6.  I  
13   mean, that's -- that's not --

14          MR. DOOLEY:  Well --

15          MR. FOSTER:  -- what she's here to talk  
16   about.  You're rehashing the stuff that she's  
17   already --

18          MR. DOOLEY:  Brian.

19          MR. FOSTER:  Let me make a record.

20                You're rehashing the issues that she's  
21   already testified about individually and you're talking  
22   about people who consumer reports weren't even run on,  
23   and everybody on this phone call can agree that they're  
24   not members of any purported class.

25                And that's what number 6 is asking her to

1 talk about, "record-keeping ability to determine class  
2 membership." And "class membership," by definition, is  
3 people who had consumer reports run on them.

4 MR. DOOLEY: Is that everything, Brian?

5 MR. FOSTER: Yes, thank you.

6 MR. DOOLEY: Thank you.

7 Brian, to respond to your comments, the point  
8 is that Swift has a record-keeping system that we need  
9 to understand and appreciate when it comes to  
10 identifying class members. The questions that I'm  
11 asking Ms. Cordova are intended to understand that.

12 She answered questions in the past based upon  
13 her personal knowledge. She's here today as a Swift --  
14 as Swift, as the company. I'm not intending to rehash  
15 and there will be, I think, if you allow me to  
16 continue, some clarity in the way that this is  
17 progressing.

18 Swift has a database. Swift uses consumer  
19 reports. My questions are intended to figure out how  
20 that happens, when that happens, from a database  
21 standpoint, so that we can argue that we can identify  
22 these folks; okay?

23 MR. FOSTER: I'll give you a little more  
24 latitude, but we're not going to go through the whole  
25 recruiting and hiring process.

1 MR. DOOLEY: We don't need to go through the  
2 entire recruiting process. We need to go through the  
3 process to the extent that it relates to the way that  
4 records are kept at Swift.

5 MR. FOSTER: "To determine" --

6 MR. DOOLEY: Now --

7 MR. FOSTER: "To determine class membership,"  
8 that's what the subject area is.

9 MR. DOOLEY: You're exactly right, "to  
10 determine class membership."

11 MR. FOSTER: Okay. I'll give you a little  
12 more latitude, but...

13 MR. DOOLEY: Okay.

14 MR. FOSTER: Go ahead.

15 MR. DOOLEY: Thank you.

16 Q. BY MR. DOOLEY: Ms. Cordova, before we were  
17 interrupted, I was asking you questions about when  
18 applicants are contacted by Swift recruiters. And my  
19 understanding of your testimony was that that happens  
20 after the application was moved to the Contact  
21 Management system, at least between 2006 and  
22 March 2011; correct?

23 A. No, that's not correct.

24 Q. Please correct me.

25 A. Prior to moving an application over, you had

1 to make live contact with the applicant.

2 Q. All right. In the database called Web App,  
3 did Swift maintain a record of those communications?

4 A. The recruiter was supposed to note  
5 communication not in Web App but in Contact Management.

6 Q. Okay. So after the communication took place  
7 and the application was moved to Contact Management,  
8 the recruiter would then document the fact that he or  
9 she had conversed with the applicant?

10 A. Yes.

11 Q. All right. When the consumer reports are  
12 procured by Swift, during the era of Web App, was there  
13 a notation in the applicant's file?

14 A. It was an automatically-generated notation.  
15 When the admin that ordered the report, it would  
16 automatically time stamp it.

17 Q. And that time stamp would be transcribed in  
18 the applicant's file as it was maintained in the  
19 Contact Management system?

20 A. Yes.

21 Now, Contact Management and Workflow worked  
22 hand in hand with one another. The recruiter worked  
23 out of Workflow.

24 Q. Who works out of Contact Management?

25 A. Contact Management was mainly the space that

1 it sat in. But if you worked from -- there -- as --  
2 from a recruiter, they worked from the back side of it,  
3 which would be considered Workflow.

4 Q. Now, when a report was procured by Swift, my  
5 understanding is that the criminal background component  
6 of that was only transmitted to the security  
7 department; correct?

8 A. Yes.

9 Q. When the security department reviewed the  
10 criminal background component of any consumer report,  
11 did anyone make any notations in an applicant's file?

12 MR. FOSTER: Object to the form.

13 THE WITNESS: Can you rephrase --

14 Q. BY MR. DOOLEY: Do you understand the  
15 question?

16 A. No. I was just about to ask you if you would  
17 rephrase that.

18 Q. Sure.

19 When someone from the security department  
20 reviewed the criminal background reports, did they make  
21 notes in the respective applicant's file?

22 A. Yes.

23 Q. And when I say "file," what is your  
24 understanding of what I'm talking about?

25 A. "File" would be Workflow.

1 Q. Okay. And were those notes based on the  
2 chosen words of the security personnel or did Swift use  
3 codes?

4 A. No, there were no codes.

5 Q. There were no codes?

6 A. No.

7 Q. Would a security team member transcribe his  
8 or her thoughts about the background in the report or  
9 simply state whether the applicant was hireable or not?

10 A. They would place a statement whether we could  
11 proceed, which would be okay to -- the individual was  
12 okay to hire, from their standpoint, or whether the  
13 individual was declined.

14 Q. All right.

15 A. Those were the only notations they would  
16 place in Workflow.

17 Q. And when we're talking about applicants,  
18 not -- not -- let me distinguish something for you.

19 I understand that those folks who work in the  
20 security department also had occasion to review  
21 criminal background reports when there would be some  
22 incident with an existing employee, be it an allegation  
23 of theft or a fight or some other problem with the  
24 employee. And I want to make sure you understand my  
25 questions to exclude that process; okay?

1 A. Yes.

2 Q. I'm only talking about reviews conducted  
3 about new job applicants; okay?

4 A. Understood.

5 Q. When the security team member would first  
6 receive the background report, would he document  
7 whether he contacted the applicant to discuss it?

8 A. In --

9 MR. FOSTER: Go ahead and answer, if you  
10 know.

11 THE WITNESS: I was asking -- in Workflow?

12 Q. BY MR. DOOLEY: In Workflow or any other  
13 place.

14 A. Not that I'm aware of. I know in Workflow,  
15 no.

16 Q. So Swift does not document when or if  
17 security team members contact applicants regarding  
18 criminal background reports?

19 A. The security team has their own -- it's -- I  
20 don't know if I would call it a database, but they have  
21 their own file-keeping that they have where they record  
22 that information, because it is sensitive information.  
23 And in Workflow, anyone who's in the recruiting  
24 department has access to those records.

25 Q. Does that database have a name?



1           A.    I -- I -- I don't know that it's a database.  
2   I -- it's a file-keeping system.

3           Q.    Does that file-keeping system have a name?

4           A.    I do not know.

5           Q.    You spoke with --

6           A.    The --

7           Q.    -- Shawn Driscoll, I believe you said, as  
8   part of your preparation for your testimony today;  
9   correct?

10          A.    That's correct.

11          Q.    And Mr. Driscoll, if I understand correctly,  
12   is in charge of the security department?

13          A.    Yes.

14          Q.    Did you discuss with Mr. Driscoll the manner  
15   in which the security department maintains records  
16   regarding applicants with whom they speak?

17          A.    I did, but I did not ask him what their  
18   file-keeping system was named.

19          Q.    Did he describe it for you?

20          A.    No.

21          Q.    Do you know whether it's a paper file-keeping  
22   system or whether it's computer-based?

23          A.    I do not know. I -- I didn't ask the --  
24   whether -- how they keep their records.

25          Q.    When security conducts their review of an

1 application and of a criminal background report, I do  
2 understand -- correctly, I hope -- that there's some  
3 document prepared or some note made that that process  
4 took place; correct?

5 A. Yes, I believe so.

6 Q. And when an applicant is ultimately  
7 determined to be not hireable, there is some  
8 documentation of that decision; correct?

9 A. Yes.

10 Q. And to the extent that it relates to a  
11 person's criminal background, that is a decision made  
12 in the security department; correct?

13 A. Yes.

14 Q. When the security department receives a  
15 criminal background report for review, do you know  
16 whether they always -- or strike that. Strike that.

17 Does the security department review every  
18 single criminal background report, even the clean ones?

19 MR. FOSTER: I'm going to object again,  
20 Matt. You're going way beyond the scope.

21 MR. DOOLEY: Brian, I need to be able to  
22 determine whether there's a group of folks that don't  
23 fit in a class. That would be a group of folks that  
24 don't have criminal backgrounds.

25 Q. BY MR. DOOLEY: Now, Ms. Cordova, does the

1 security department review every single criminal  
2 background report?

3 A. Yes, I believe they do.

4 Q. Earlier I asked you if Swift utilized a  
5 coding process to communicate decisions about an  
6 applicant's hirability. You said they do not; correct?

7 A. That's correct.

8 Q. In some of the documentation that Swift has  
9 provided, there's been reference to a code, D12. Are  
10 you familiar with that?

11 A. Yes.

12 Q. What does D12 mean?

13 A. D12 is a termination code. Those are for  
14 individuals who have -- who are employed with Swift.

15 Q. Okay. So Swift uses codes to communicate  
16 some hiring decisions but only those that pertain to  
17 current employees?

18 A. We have termination codes.

19 Q. All right. Would a termination be coded --  
20 would a termination code be used to document a decision  
21 not to hire someone?

22 A. No.

23 Q. Would there be any other code that would be  
24 used not to hire someone?

25 A. "Any other code" as in?

1 Q. I used the word "code."

2 A. I'm not sure --

3 Q. I'm sorry.

4 A. All right.

5 Q. I used the word "code." You refined it to  
6 mean "termination code."

7 Are there other codes within the family of  
8 codes that Swift would use to document a decision not  
9 to hire?

10 An acronym, for example, a numeric code, a  
11 symbol.

12 A. No.

13 Q. Did Swift use any common phrase in  
14 record-keeping to document a decision not to hire  
15 someone?

16 A. "Common phrase" such as? Do you have an  
17 example?

18 Q. Sure. "Not hireable," "disqualified," "DMS,"  
19 "not qualified."

20 A. Those are words that we use, but they're not  
21 codes.

22 "DMS," I'm not familiar with.

23 Q. Okay. Let's go through the words that Swift  
24 uses. I named a number of various phrases. Can you  
25 tell me the ones that Swift uses?

1           A.    As in "disqualified," the individual is  
2 "disqualified." "Disqualified" means that the  
3 individual does not meet hiring criteria or DOT  
4 regulations.

5           Q.    And so where would one find the phrase  
6 "disqualified"? Would that be in Workflow?

7           A.    I'm not sure what -- as in disquali- -- do  
8 you have something that I can look at? Is there  
9 something that you want me to look at?

10           I'm not sure if it's...

11           Q.    You testified that Swift uses the phrase  
12 "disqualified." Where have you seen that used?

13           A.    In a sentence.

14           Q.    Okay. Was that sentence in an email or was  
15 that in Workflow or some other place?

16           A.    It can be -- it can be during an everyday  
17 conversation, if someone comes to me and asks me will  
18 you review this file. This person --

19           Q.    And -- and when that is done, when that  
20 review is done and the determination is made that the  
21 applicant is disqualified, is that reduced to writing?

22           A.    No.

23           Q.    Is it put in any electronic database?

24           A.    That information?

25           Q.    The disqualification of that applicant.

1           A.     No.

2           Q.     If the applicant, for example, reapplies for  
3 a job after he's been disqualified, does Swift have a  
4 way to readily determine that that applicant previously  
5 applied and was disqualified?

6           A.     If someone reapplied, there would be a  
7 duplicate app.

8           Q.     And what would that mean to the recruiter?

9           A.     The recruiter wouldn't know until they tried  
10 to download the application into -- well, today, it  
11 would be App Manager. They would have no idea that  
12 there was a duplicate application until they tried to  
13 download it.

14                   And sometimes Workflow will tell you that  
15 there's a duplicate record. However, if the record is  
16 extremely old, it's a possibility that it will -- you  
17 will not get that information.

18           Q.     Will the recruiter then be able to review the  
19 original application and any decision by Swift that  
20 that person was not hireable?

21           A.     If they were able to locate the application,  
22 they can --

23           Q.     Yes.

24           A.     They can open up that application and review  
25 any of the notes that are made in there. But normally

1 those type of notes aren't in the Workflow.

2 I mean, it just really -- it's case by case.  
3 You might have an individual -- a recruiter who might  
4 put notes in there and you may have a recruiter who  
5 doesn't put notes in there. So it would be case by  
6 case.

7 Q. All right. If I understood correctly, the  
8 only notes regarding a decision not to hire someone, in  
9 the context of a criminal background report, would not  
10 be made by the recruiter but by a security  
11 investigator; correct?

12 A. That's correct.

13 Q. And those notes would be available to a  
14 recruiter reviewing an old application; correct?

15 A. No.

16 Q. Would those notes be available -- strike  
17 that.

18 Those notes are kept where?

19 A. In the security department.

20 Q. Okay. Who was in charge of that database or  
21 that file-keeping system?

22 A. The security department.

23 Q. Is there an individual who is in charge of  
24 the security department?

25 A. Yes.

1 Q. Who is that?

2 A. Gary Fitzsimmons and Shawn Driscoll.

3 Q. And is one or both of those in charge of the  
4 file-keeping system that you've described?

5 A. I would say to the best of my knowledge, it  
6 would be Shawn Driscoll.

7 Q. Do you know how long that database has been  
8 used by the security department or maintained by the  
9 security department?

10 MR. FOSTER: Object to the form, use of the  
11 term "database."

12 Q. BY MR. DOOLEY: Ms. Cordova, do you  
13 understand what I mean when I say "database"? You  
14 understand that I mean the file-keeping system that  
15 you, yourself, described?

16 A. Yes.

17 Q. With that knowledge, how long has the Swift  
18 security department maintained that file-keeping  
19 system?

20 A. Based on -- based on the knowledge, I would  
21 say that they've -- I -- I'd be -- I'd be assuming, but  
22 I would have to say that they began the file  
23 record-keeping system when they began doing all -- when  
24 their department opened.

25 Q. And when was that?



1           A.     Security -- well, security itself has been  
2     with the company since the company opened. The  
3     investigations department opened -- that was created  
4     prior to 2006.

5           Q.     Okay. Look at topic 4, if you would, on  
6     Plaintiffs' Exhibit 1. Read that to yourself.

7                     Ms. Cordova?

8           A.     I've read it.

9           Q.     Did you have any discussions with  
10    Mr. Driscoll about the identity of applicants who were  
11    denied employment by Swift based in whole or in part on  
12    information in consumer reports?

13          A.     No, I did not ask him of the identity.

14          Q.     All right. Did you have any discussions with  
15    any Swift employees about the identity of those  
16    applicants?

17          A.     In discussing the record-keeping ability?

18                     I --

19          Q.     We're looking at topic -- I'm sorry. Go  
20    ahead.

21          A.     In discussing the record-tracking ability, I  
22    did discuss the identity with Jim Pope, who is our  
23    IT person. And --

24          Q.     And --

25          A.     Go ahead. I'm sorry.

1 Q. No, I didn't mean to cut you off. I thought  
2 you were done. "And" what?

3 A. And we discussed this information and there's  
4 no -- there's no way, other than a record-by-record  
5 search -- which would take thousands of hours -- to  
6 identify individuals and determine whether or not a  
7 consumer report had been ordered.

8 Q. Okay. Is that what Mr. Pope told you?

9 A. Yes. He said there is no -- there is  
10 currently no tracking ability.

11 Q. Did Mr. Pope talk to you at all about  
12 HireRight?

13 A. No.

14 Q. Do you know what HireRight is?

15 A. Yes.

16 Q. Did anyone talk to you about HireRight's  
17 ability to identify individuals about whom Swift  
18 procured a consumer report?

19 MR. FOSTER: What topic are you on now?

20 MR. DOOLEY: HireRight.

21 MR. FOSTER: What topic number?

22 MR. DOOLEY: Number 13.

23 MR. FOSTER: That's about all communication  
24 between Swift and HireRight about the lawsuit; correct?

25 MR. DOOLEY: Well, the allegations and the

1 facts alleged therein.

2 MR. FOSTER: Yeah, the lawsuit; okay?

3 So what -- rephrase your question based on  
4 the proper subject heading.

5 MR. DOOLEY: Madam Court Reporter, can you  
6 read back the question that I asked?

7 COURT REPORTER: Sure.

8 *(The record was read as follows:*

9 *QUESTION: Did anyone talk to you about*  
10 *HireRight's ability to identify individuals about whom*  
11 *Swift procured a consumer report?)*

12 Q. BY MR. DOOLEY: The lawsuit is about Swift  
13 procuring consumer reports. So I'd ask that you answer  
14 my question as it was stated.

15 A. I had no discussion. I read an email.

16 Q. Can you tell me about that email that you  
17 read?

18 A. The email was between HireRight's counsel and  
19 Swift's attorneys requesting how many consumer reports  
20 had been ordered within Swift's accounts.

21 Q. Did you discuss that email with anyone?

22 A. Swift's attorneys, yes.

23 MR. DOOLEY: Let's take just a short break;  
24 okay?

25 MR. FOSTER: Okay. Very good.

1 MR. DOOLEY: Feel free to mute me.

2 MR. FOSTER: I'll try.

3 (Recess from 11:15 a.m. to 11:32 a.m.)

4 MR. FOSTER: All right, Matt, we're back.

5 Q. BY MR. DOOLEY: Ms. Cordova, before we took  
6 the break, we were talking about communications between  
7 Swift and HireRight. Do you recall that?

8 A. Yes.

9 Q. And you referenced an email that you reviewed  
10 in preparation for answering questions about topic 13  
11 on Plaintiffs' 1.

12 Just so I'm clear, did you review any other  
13 documents regarding communications between Swift and  
14 HireRight?

15 A. No, just that email.

16 Q. All right. So aside from what's contained in  
17 that email, do you have any additional information that  
18 you could have learned from anyone that you spoke with  
19 about the communications between HireRight and Swift  
20 about this case?

21 A. We had three different communications with  
22 HireRight.

23 Q. And that would be separate from the email?

24 A. That's correct.

25 Q. Would you please tell me when the first one

1 took place?

2 A. The first communication was through  
3 Michelle Deutsch to HireRight after the lawsuit had  
4 been filed --

5 Q. About --

6 A. -- requesting --

7 Q. Go ahead.

8 A. -- requesting that they preserve the records.

9 Q. Do you know the date of that communication?

10 A. I do not know the exact date. I do know that  
11 that happened in September of 2011, I believe.

12 Q. Are you looking at any documents right now?

13 A. Just the exhibit that you provided me.

14 Q. Okay. Was that a communication that was put  
15 into writing or was that just a telephone call?

16 A. I believe she sent them an email.

17 Q. Okay. How did you learn about that email if  
18 it was not part of the more recent communication in  
19 July of 2012?

20 A. Because I spoke to Michelle. I was -- I was  
21 in the department -- or I'm in the department, and that  
22 was something that we met about.

23 Q. When you say "the department," would you tell  
24 me what department that is?

25 A. The recruiting department.

1 Q. Okay. When was the second communication?

2 A. The second communication was, again, in  
3 September of 2011, when we requested a consent form  
4 from them.

5 Q. When you say a "consent form," can you tell  
6 me what you mean?

7 A. It's what they -- they have it titled as a  
8 "HireRight Consent Form."

9 Q. And who made that request?

10 A. The investigations department.

11 Q. Is there a person who made that request on  
12 behalf of the investigations department?

13 A. Angelica Flores.

14 Q. And was that a communication in email or by  
15 phone?

16 A. I'm not sure whether she contacted them by --  
17 by phone or by email.

18 Q. And did HireRight respond with a copy of the  
19 consent form, as requested?

20 A. Yes.

21 Q. When was the third communication?

22 A. The third communication was when the  
23 attorneys working with Swift were contacted requesting  
24 how many consumer reports had been ordered in a  
25 two-and-a-half-year time frame.

1 Q. Is that the email from July of 2012 or is  
2 that a separate communication?

3 A. That's the email from July of 2012.

4 Q. Okay. Aside from those three communications  
5 with HireRight, has Swift had any additional  
6 communications with HireRight about this case?

7 A. No, not that I'm aware of.

8 Q. All right. I'd like you to flip back, if you  
9 would, to page 5, number 4, which is a topic regarding  
10 the identity of applicants who were denied employment  
11 because of a consumer report, in whole or in part.

12 We touched upon it earlier. I'd like to  
13 focus on it a bit more. And I don't want to rehash the  
14 entire hiring process, but as the corporate  
15 representative of Swift, I want to understand, so that  
16 I can apply some deductive reasoning, how one might be  
17 able to develop a subset of applicants who were denied  
18 employment based in whole or in part on a consumer  
19 report; okay?

20 A. Understood.

21 Q. Now, I understand that the Swift security  
22 department has a separate database that's kept  
23 separate, in large part, because of the sensitive  
24 nature of the information; correct?

25 A. Yes. They have a different filing system.

1           Q.    All right.  And I don't mean to confuse you,  
2   Ms. Cordova, by using the word "database" versus  
3   "filing system," but can you tell me why that  
4   distinction should be made?

5           A.    The distinction between "database" and  
6   "filing system"?

7           Q.    Why do those -- why are those two terms  
8   separate and distinct to you?

9           A.    Well, a database is software, where records  
10   are stored, and a filing system is information that you  
11   key in, whether it's first name, last name,  
12   Social Security number, and you're manually entering  
13   that data.  In a database, the data's already stored,  
14   so you're not manually entering that information.

15          Q.    Okay.  And forgive me if I'm repetitive, but  
16   do you know if that filing system is kept on paper  
17   versus electronically on a computer?

18          A.    In the investigations department?

19          Q.    Yes, ma'am.

20          A.    If -- if -- if -- their -- what they have  
21   that I've seen -- and I didn't ask them, but it should  
22   be the same, because I'm not sure if you recall but I  
23   was also in that department -- it's an Excel  
24   spreadsheet.  So it can be on paper if they print it  
25   out, but otherwise it's contained in someone's



1 computer.

2 Q. I see.

3 And that Excel spreadsheet would include the  
4 notes from the communications between applicants and  
5 security personnel?

6 A. The hard copy file would include the notes.

7 Q. Okay. When Swift investigations personnel --  
8 why don't I just call them Swift investigators, to save  
9 a few words?

10 When Swift investigators contact an  
11 applicant, is it because a criminal background report  
12 had something on it that warranted investigation?

13 A. It's based -- well, there's -- there's a  
14 couple of reasons why. You -- you may have someone who  
15 willingly disclosed information on -- originally on the  
16 application and it's questionable, so it's submitted to  
17 the investigations department. Or you have a  
18 widescreen return and that widescreen does not match  
19 the application.

20 Q. I see.

21 And in the latter sense that you just  
22 described, the latter scenario with the widescreen,  
23 does the hard copy printout with the note section of  
24 the file-keeping system reference the fact that the  
25 widescreen did not match the application?

1           A.     Can you re- --

2           Q.     Sure.

3                   MR. FOSTER:   I was going to object to the  
4     form.

5           Q.     BY MR. DOOLEY:   Sure.   Why don't I -- why  
6     don't I rephrase it?

7                   Does the file-keeping system have information  
8     in it to indicate when an applicant's widescreen report  
9     does not match the application?

10          A.     Not -- not that I'm aware of.

11          Q.     Let's talk about the initial scenario that  
12     you described, which would be the self-disclosure.   I  
13     assume that the self-disclosure might be on the border  
14     with respect to hiring guidelines and therefore  
15     required approval from security; correct?

16          A.     Yes.

17          Q.     And when Swift security folks approve or  
18     disapprove on that basis, meaning a self-disclosure  
19     that is okay or not okay, does the file-keeping system  
20     have information in it about that decision?

21          A.     The -- I -- you confused me, I apologize.

22          Q.     I'm sorry.

23          A.     But I -- can you --

24          Q.     It was a confusing question.   Let me re-ask  
25     it.

1           You described two scenarios that would  
2       warrant review by security: One, a self-disclosure;  
3       and two, an inconsistent widescreen.

4           Correct?

5           A.     Yes.

6           Q.     And when I say "inconsistent widescreen," I'm  
7       saying that the information contained on the  
8       applicant's application about his background is not the  
9       same as what the widescreen shows; okay?

10          A.     Okay.

11          Q.     Now, with those two scenarios, does the Swift  
12       investigations department distinguish when their review  
13       is undertaken for the first scenario versus the second?

14                 MR. FOSTER: What do you mean by  
15       "distinguish"?

16          Q.     BY MR. DOOLEY: Ms. Cordova, was my question  
17       vague to you?

18          A.     I -- no, it was -- it was clear. I mean,  
19       I -- I realize -- but "distinguish," do you mean do  
20       they -- it doesn't matter what method, whether or not  
21       the widescreen was inconsistent or whether it was  
22       self-disclosed, because an interview is going to be  
23       conducted.

24                 So they do not -- it's -- is that -- do they  
25       put one in one bucket and one in another bucket, is

1 that what you're asking me?

2 Q. Yes, ma'am.

3 A. No.

4 Q. All right. So an interview will be  
5 conducted, no matter what. And after that interview,  
6 there will be a note made in the file-keeping system  
7 regarding approval or disapproval; correct?

8 A. Correct.

9 Q. Will that note contain any additional  
10 information about the reason for the decision to hire  
11 or not hire?

12 A. Well, the reason is based off of the  
13 interview and the information that they receive from  
14 the applicant. It's all firsthand.

15 So they -- yes, they will make their notes.  
16 However, the decision is based off of firsthand  
17 information that's disclosed by the applicant.

18 Q. Okay. And the interview only takes place --  
19 let's say it's -- let me pose a scenario, because  
20 that's an easier way for me to phrase my question.

21 An application does not have any  
22 self-disclosure on it but there's an inconsistent  
23 widescreen; okay? That's the scenario; okay?

24 A. Okay.

25 Q. An interview will take place; correct?

1           A.     Correct.

2           Q.     That interview would not have taken place if  
3     the widescreen was consistent with the application;  
4     correct?

5           A.     If the widescreen was consistent with the  
6     application, the applicant would have self-disclosed  
7     information and there's a big possibility that the  
8     interview would still take place.

9           Q.     I'm sorry, my -- my scenario was different  
10    than what you described. I'm saying the application  
11    did not have any self-disclosure. In response to the  
12    question, "Do you have a criminal record," applicant  
13    says no. That's the scenario; okay?

14          A.     Okay.

15          Q.     A widescreen is ordered that shows a criminal  
16    record; okay?

17          A.     Okay.

18          Q.     Now, in that instance, an interview would  
19    take place between the applicant and the security  
20    person; correct?

21          A.     Correct.

22          Q.     But if the applicant had said no and the  
23    widescreen report confirmed his answer was correct,  
24    there would be no interview with the security  
25    department; correct?

1 A. That's correct.

2 Q. Thank you.

3 The interview with respect to inconsistencies  
4 between -- actually, strike that. Strike that.

5 Look at number 3, if you would, Ms. Cordova,  
6 which asks about the number of applicants who were  
7 denied employment based in whole or in part on a  
8 consumer report.

9 At the beginning of the deposition, I believe  
10 you indicated that you did not know the answer to that;  
11 correct?

12 MR. FOSTER: Objection, misstates her  
13 testimony.

14 Q. BY MR. DOOLEY: Do you know the answer to  
15 that, topic 3, Plaintiffs' 1?

16 A. Swift does not decline employment based on  
17 third-party information from a consumer report. An  
18 interview is conducted. And based off of the  
19 interview, a decision is made.

20 Q. Do you understand the phrase "based in whole  
21 or in part"?

22 A. Yes, I do.

23 Q. Please tell me what your understanding of  
24 that phrase is.

25 A. My understanding is whether -- my

1 understanding of that is whether or not a -- one -- one  
2 inclination could be a decision-maker. That's what my  
3 understanding of that is.

4 Q. Forgive me, I don't understand your answer.  
5 What do you mean by "one inclination could be a  
6 decision-maker"?

7 A. Well, "based in whole or in part" is either  
8 you're looking at the person as a whole or you're  
9 looking at the person as a partial. If -- with -- what  
10 you're asking here is if we were looking at a consumer  
11 report, did we make a decision based off of anything in  
12 that consumer report or did we make a decision  
13 100 percent based off of the consumer report. That's  
14 what my understanding is.

15 Q. All right. Thank you.

16 Ms. Cordova, I appreciate your understanding  
17 of that phrase. And so that I'm clear, I -- I want to  
18 make sure that I understand one more thing, and that is  
19 the scenario that I described with respect to an  
20 interview being conducted where an applicant does not  
21 self-disclose but a widescreen shows a criminal  
22 history. Do you remember that --

23 A. Yes.

24 Q. -- that scenario?

25 That report is being used to make a decision

1     that an interview is necessary; correct?

2             A.     That's correct.

3             Q.     All right. And when that person is  
4     interviewed and a decision is made, the decision is  
5     maintained or on file, if you will, with the security  
6     department's file-keeping system; correct?

7             A.     Correct.

8             Q.     That would be the Excel spreadsheet that you  
9     referenced; correct?

10            A.     Yes.

11            MR. FOSTER: Just so the record is clear,  
12     Matt, you guys have that Excel spreadsheet and you have  
13     the hard copy stuff, the two different things she's  
14     talked about in her deposition.

15            MR. DOOLEY: Thanks, Brian.

16            We may be nearing the end sooner than we'd  
17     thought. If you'd be so kind as to give us just a  
18     brief, five-minute break, hopefully we can wrap this up  
19     relatively shortly; okay?

20            MR. FOSTER: Okay. Very good. Thank you.

21            MR. DOOLEY: Thank you, Brian.

22            (Recess from 11:50 a.m. to 12:00 p.m.)

23            (Mr. Kroeger left the room.)

24            Q.     BY MR. DOOLEY: Ms. Cordova, thank you for  
25     the break.



1           To go back to where we left off, when an  
2           applicant self-discloses a criminal record, is a  
3           widescreen pulled?

4           A.    When a -- I'm sorry, can you repeat the  
5           question?

6           Q.    Sure.

7                    When an applicant self-discloses a criminal  
8           background, is a widescreen pulled?

9           A.    Yes.

10          Q.    What's the basis for that?

11          A.    We bundle order.

12          Q.    So you're saying that you don't choose  
13   a la carte to order a widescreen, it just happens to  
14   come in with the package?

15          A.    That's correct.

16          Q.    And so I'm clear, what is the nature of the  
17   bundle? What's in the bundle?

18          A.    It is MVR, CDLIS -- would you like me to  
19   describe what --

20          Q.    I actually know what you're talking about --

21          A.    Okay.

22          Q.    -- when you just use the acronyms --

23          A.    Okay.

24          Q.    -- so go ahead.

25          A.    Okay. An MVR, CDLIS, Social Security trace,

1 the employment history -- which is also referred to as  
2 a DAC -- and a widescreen.

3 Q. All right. When an applicant self-discloses  
4 information on an application, is it compared against  
5 the information contained on the widescreen?

6 A. No. And all -- it depends on what it is that  
7 they self-disclosed.

8 (Mr. Kroeger entered the room.)

9 Q. BY MR. DOOLEY: Please explain.

10 A. If an applicant self-discloses information  
11 prior to us receiving a widescreen, the information is  
12 sent over. The individual is set up for an interview.

13 Q. Okay. Back towards the beginning of the  
14 deposition, we talked about a group of applications  
15 that were rejected on their face for, among other  
16 reasons, self-disclosed crimes. Remember that?

17 A. Yes.

18 Q. And so now that -- in your testimony you've  
19 referenced a scenario where someone has self-disclosed  
20 and a background report has not been obtained --

21 (Interruption.)

22 Q. BY MR. DOOLEY: Can you explain -- I'm sorry,  
23 go ahead.

24 MR. FOSTER: No, no, let's go by question and  
25 answer.

1 Q. BY MR. DOOLEY: There is a scenario that  
2 you're describing where a background report has not  
3 been obtained but an interview has been scheduled. Can  
4 you please tell me the situation or situations when  
5 that takes place?

6 A. The records have been ordered; however,  
7 because we have the information, what happens is that  
8 individual is scheduled for an interview. They are  
9 sent over to the investigations department.

10 And at that point -- the record could be  
11 back, the record has -- may have already been ordered,  
12 but at that point, that -- the investigations  
13 department takes over on that file.

14 Q. Okay. And after the report is available for  
15 Swift's review, is it compared to the information  
16 provided by the applicant during the interview?

17 A. They schedule the interview once they have  
18 the information; however --

19 Q. Okay.

20 A. -- the questions that are asked are  
21 open-ended questions.

22 The questions -- when interviewing an  
23 applicant, you are asking the applicant if they have  
24 ever been convicted. You're asking them open-ended  
25 questions. You're -- once they disclose any type of

1 information, you reiterate, "Is there anything else?  
2 Is there anything else you would like to disclose at  
3 this time?"

4 And during that process, the individual is  
5 giving you information, and it may or may not be on the  
6 widescreen.

7 Q. Okay. Is the widescreen available to the  
8 interviewer during that process?

9 A. Yes.

10 Q. Is it being reviewed by the interviewer  
11 during that process?

12 A. They have it available if they need it.

13 Q. And why would they need it?

14 MR. FOSTER: Hey, Matt, again, I'm going to  
15 object here, and I've been very lenient. You're way  
16 beyond the scope of anything that has to do with your  
17 30(b)(6) notice and I'm not going to let this continue.

18 MR. DOOLEY: Are you instructing her not to  
19 answer that question, I'm sorry?

20 MR. FOSTER: Yeah, the objection was that  
21 you're way beyond the scope of the 30(b)(6) notice. So  
22 unless you can explain to me how it is -- and I'm  
23 wanting you to focus on the specific number and the  
24 specific language in your notice.

25 MR. DOOLEY: Okay. Sure.

1           Number 4 seeks the identity of applicants who  
2           were denied employment by Swift based in whole or in  
3           part upon a consumer report. And the question requests  
4           whether the person who's going to be making a hiring  
5           decision is looking at a consumer report.

6           MR. FOSTER: And she's already testified that  
7           Swift does not deny based on consumer report.

8           MR. DOOLEY: Well, I understand that's her  
9           testimony, but my question was well within the scope of  
10          that topic.

11          But I'll move on.

12          Q. BY MR. DOOLEY: Earlier we talked about  
13          codes. We talked about --

14          MR. DOOLEY: And, Brian, this is still within  
15          the purview of topic 4.

16          Q. BY MR. DOOLEY: -- codes. I mentioned D12  
17          and you mentioned to me that that was a code that is  
18          used for current employees; correct?

19          A. Yes.

20          Q. Are individuals who are in orientation  
21          considered employees?

22          A. No.

23          Q. Aside from the Excel file that the security  
24          department maintains, is there any record of how many  
25          reviews the security department undertakes each year?

1 A. Aside from their Excel spreadsheet?

2 Q. Yes.

3 A. No, not -- not that I'm aware of.

4 Q. Aside from the file-keeping system or Excel  
5 database that's kept by the security department, is  
6 there any other document or database or file-keeping  
7 system that records any decision to hire or not hire an  
8 applicant?

9 A. I'm not understanding your question.

10 Q. Sure.

11 Aside from the file-keeping system maintained  
12 by the security department, are there any other  
13 databases or file-keeping systems where a person can  
14 determine if an applicant was hired or not?

15 A. To determine whether an applicant was hired  
16 or not.

17 There's a date that's placed in Workflow once  
18 an applicant's been hired, the date that they were  
19 hired. So if you opened the records in Workflow, you  
20 would have to go to the hire tab, and if a date has  
21 been placed in there, you know that that individual was  
22 hired.

23 Q. And by the same logic, if that field is  
24 blank, that individual was not hired?

25 A. Yes.

1           Q.    At the beginning of this deposition, we  
2 talked about your efforts to identify information  
3 covered in topic 3, which would be the number of  
4 applicants who were denied. And you mentioned -- and I  
5 don't want to misquote -- but you mentioned that  
6 something like that would take "thousands of hours."  
7 Do you recall that testimony?

8           A.    Yes, that's true.

9           Q.    Okay. Can you tell me the basis for your  
10 testimony that it would take "thousands of hours"?

11          A.    Those are -- those would be record-by-record  
12 searches. The -- what we would have to do is go  
13 through every single file in Workflow, open it up,  
14 determine whether a consumer report had been ordered,  
15 go back, talk to the recruiter, the processor, the  
16 investigations department, and hopefully they'll  
17 remember what -- what happened -- as a -- as a  
18 recruiter, you talk to thousands of people, so -- I  
19 mean, that's -- you're relying on someone's memory --  
20 and hopefully be able to obtain some type of  
21 information, but we wouldn't be able to guarantee that  
22 it would be accurate.

23          Q.    And I assume that no such review has been  
24 undertaken as of today?

25          A.    That's correct.

1           Q.    Ms. Cordova, you mentioned among the various  
2 people that would be consulted in that process, you  
3 mentioned going to the security department and speaking  
4 with the people there about a particular applicant.  
5 Can you elaborate on the discussions that would need to  
6 be had with that department?

7           A.    I'm not sure what you're asking for. You  
8 said "a particular applicant."

9           Q.    Well --

10          A.    On a record-by-record search?

11          Q.    You've indicated that it was impossible to  
12 determine the number of applicants because it would  
13 require a record-by-record search. I asked you how you  
14 would do that, if you were going to, and you indicated  
15 there was a process in place, I suppose, or a process  
16 that could be used where somebody would speak with the  
17 recruiter, they would look at files in the databases,  
18 and they may speak to the security department; correct?

19          A.    It's not a process. It's my train of thought  
20 of what I would do and who I would talk to in order to  
21 get some type of information, because there's no way  
22 for me to pull a report.

23                   I cannot query the information. I cannot  
24 pull a report. I would have to go through the file.

25          Q.    Okay. And part of that process, you



1 testified, included speaking with the security  
2 department; correct?

3 MR. FOSTER: Object to the form.

4 Q. BY MR. DOOLEY: Is that not your testimony,  
5 Ms. Cordova, that part of that process you described,  
6 that train of thought that you described, included  
7 speaking with the security department?

8 A. Yes, if they were involved, I would speak  
9 with the security department.

10 Q. All right. And the security department is  
11 involved when there's an inconsistency between the  
12 application and the widescreen or there's a  
13 self-disclosure on the application; correct?

14 A. Correct.

15 Q. And when you would get to the security  
16 department, what questions would you ask?

17 A. "Did you interview this applicant?"

18 Q. And would there be a record of that in the  
19 Excel file that you described?

20 A. Yes. If they interviewed the applicant, they  
21 would manually enter that data in there.

22 Q. All right. And in that Excel file, would  
23 there also be copies of the widescreen report or the  
24 application or the self-disclosure?

25 A. In the Excel spreadsheet or in the hard copy

1 file?

2 Q. The hard copy file.

3 A. They would have their notes and things  
4 like -- such as that in the hard copy file.

5 Q. The widescreen report itself, would that be  
6 kept in the hard copy file?

7 A. I've not had to pull a hard copy file so I  
8 wouldn't -- I -- I wouldn't be able to say yes or no to  
9 that.

10 Q. Let me be more specific, and let me tell you  
11 why I'm asking this. On the Excel database, there are  
12 hyperlinks for certain documents in the -- or on the  
13 screenshot of a various applicant. I can't access  
14 those because I'm not logged into Swift's computer.

15 If you were logged into that Excel  
16 spreadsheet, would those widescreen reports be  
17 available?

18 A. The hyperlink then would take you to  
19 HireRight.

20 Q. And the report would be somehow viewable at  
21 that point?

22 A. Yes.

23 Q. Ms. Cordova, when in that train of thought  
24 when you're talking to the security department and  
25 you're going through these files, what are you looking

1 for to answer the question posed in topic number 3,  
2 Plaintiffs' Exhibit 1?

3 A. Well, I would be looking for anything,  
4 actually. If I -- in talking with the investigations  
5 department, I would ask, number one, did they interview  
6 the applicant, was the information obtained from the  
7 application, did -- was that information true, was it  
8 false. There's -- there would be a ton of different  
9 things.

10 I guess I'd have to look -- I'd have to have  
11 the application scenario and --

12 Q. Okay.

13 A. -- know what it is -- what it is -- what my  
14 target is, what is it that I'm asking, what is it that  
15 I'm looking at, in order to ask the correct questions.

16 Because you may not even have investigations  
17 involved. You may have them involved. There may be  
18 other departments that I may need to speak to in order  
19 to get a decision on the reason behind not hiring this  
20 individual.

21 Q. Investigations is the only department within  
22 the Swift organization that obtains widescreen reports;  
23 correct?

24 A. Yes.

25 Q. It's the only department that uses widescreen

1 reports at all; correct?

2 A. Yes.

3 Q. And it uses those reports in the course of  
4 evaluating a candidate's employability; correct?

5 A. No, they don't rely on the third-party  
6 information from the consumer report.

7 Q. Why is a -- why is a widescreen report even  
8 obtained?

9 A. It's part of the bundle package that  
10 HireRight offers us.

11 Q. What's the basis for Swift's decision to pay  
12 the money to purchase the widescreen report?

13 MR. FOSTER: I'm going to object, Matt.  
14 You're getting way beyond any subject in your 30(b)(6)  
15 and I'm going to ask you to tie it to a specific  
16 subject.

17 MR. DOOLEY: Hey, Brian?

18 MR. FOSTER: Yeah, I'm here.

19 MR. DOOLEY: Topic 3, which we're going over,  
20 is intended to figure out the number of applicants.  
21 And as we've tried to explore Ms. Cordova's train of  
22 thought, she's taken us through the security department  
23 and brought us to this point where the security  
24 department has obtained widescreen reports for  
25 apparently no reason.

1           Now, widescreen reports are the criminal  
2 background reports. I'm not sure how that is far  
3 afield from topic number 3, given the fact that we've  
4 gone down this road in the vein of that topic.

5           MR. FOSTER: Well, the testimony has been  
6 that the recruiter is the one who orders the bundled  
7 package. So I think it's way beyond the scope of any  
8 subject to ask, you know, why it was ordered or things  
9 of that nature.

10          MR. DOOLEY: Okay. And I also understand  
11 that the security department is the only department in  
12 the entire Swift organization that even has access to  
13 these reports. So I think I'm entitled to discover why  
14 they do that from Swift's designee to a 30(b)(6) notice  
15 that's intended to figure out specifically issues about  
16 these consumer reports.

17          MR. FOSTER: Well, what you're asking about  
18 is the identity of people who were declined based on  
19 the consumer report. That doesn't have anything to do  
20 with the recruiter's decision as to why they ordered as  
21 to any particular applicant.

22          MR. DOOLEY: It has to do with the security  
23 department's use of these consumer reports to make  
24 these decisions. I understand that Ms. Cordova  
25 testifies that they use something else. I'm not

1 required to accept that.

2 Now, if you want to instruct her not to  
3 answer or move for protective order on this question  
4 about why Swift is buying these reports when apparently  
5 they don't mean anything, then we can do that.

6 MR. FOSTER: Based on the fact that you  
7 haven't articulated any subject area here that would  
8 remotely touch on why something was ordered, I'm going  
9 to instruct the witness not to answer.

10 MR. DOOLEY: All right. Well, let me make my  
11 record on this issue, then.

12 The topic in the deposition notice says,  
13 topic 4, Plaintiffs' 1, the witness is going to be  
14 asked questions about the identity of applicants who  
15 were denied employment based in whole or in part on  
16 consumer reports.

17 The only department in the entire company --  
18 which she's here to testify on behalf of -- is the  
19 security department, when it comes to using these  
20 reports. That's it. The security department reviews  
21 these reports to make decisions. Those decisions  
22 whether to hire or not hire fall directly within topic  
23 4. And the witness has testified that these reports,  
24 for some reason, don't have anything to do with that  
25 process at all.

1           And when I asked why the reports are then  
2     procured, you have put your foot down and said it will  
3     not be answered.

4           MR. FOSTER: And again, Matt, she testified  
5     earlier that the reports are ordered by the recruiting  
6     department. And so your question as to why a  
7     particular recruiter decided to order a particular  
8     consumer report, that's really what you want  
9     Ms. Cordova to answer?

10          MR. DOOLEY: No, that's not it at all,  
11     Brian. Her testimony is that these reports are only  
12     obtained because they happen to be part of a bundle.  
13     It's like I order a plate of food and it comes with  
14     broccoli but I don't eat it because I don't like  
15     broccoli.

16          Now, I want to know why Swift is getting  
17     reports that they apparently don't use, reports that  
18     are at the heart of topic 4, Plaintiffs' 1. My  
19     understanding is you're instructing her not to answer,  
20     and if that's the case, that's the case.

21          MR. FOSTER: Okay. Well, based on the record  
22     that's been made, you haven't established any  
23     tangential connection to any of the subjects that are  
24     contained within your amended 30(b)(6) deposition  
25     notice. But in the interests of wrapping this

1 deposition up, I'm going to go ahead and let -- let her  
2 answer the question, if she has any answer for you.

3 So go ahead and re-ask the question. But I'm  
4 not going to let you go much further than this, Matt.

5 MR. DOOLEY: Thank you. Thank you, Brian.

6 Q. BY MR. DOOLEY: Ms. Cordova, you just heard a  
7 dialogue between me and your counsel which was not  
8 intended to influence your answer to my question by any  
9 means, so please don't let it.

10 The question that I asked was why Swift  
11 spends the money on widescreen reports when they are  
12 apparently not used by the security department.

13 MR. FOSTER: Same objection.

14 You can answer if you know.

15 MR. DOOLEY: We know that.

16 THE WITNESS: The -- the bundle package that  
17 was given to us by HireRight, the amount of money spent  
18 on a widescreen is not much. So whether or not we're  
19 paying two pennies for it, 10 pennies for it -- or  
20 10 cents for it, to be honest with you, it's just a  
21 package that was ordered. And because it is a package,  
22 the company has said okay, we will go ahead and accept  
23 this package because it does not -- it doesn't affect  
24 the expensing portion of it.

25 I -- I guess that's what you're asking. It's



1 not -- it's not a huge expense. And so it's part of  
2 the package that HireRight offers us. We've accepted  
3 it.

4 Q. BY MR. DOOLEY: Ms. Cordova, does Swift use  
5 widescreen reports in any way at all?

6 A. The investigations department does receive  
7 those widescreen reports. And if there is a widescreen  
8 report that comes in that does not match the  
9 information on an application, they will then request  
10 an interview.

11 But any decision that is made is going to be  
12 based on the information that they receive from the  
13 applicant.

14 MR. DOOLEY: Thank you

15 Madam Court Reporter, can you repeat  
16 Ms. Cordova's answer for me, please?

17 *(The record was read as follows:*

18 *ANSWER: The investigations department does*  
19 *receive those widescreen reports. And if there is a*  
20 *widescreen report that comes in that does not match the*  
21 *information on an application, they will then request*  
22 *an interview.*

23 *But any decision that is made is going to be*  
24 *based on the information that they receive from the*  
25 *applicant.)*

1 MR. DOOLEY: Thank you.

2 Ms. Cordova, I believe that's all I have for  
3 you. I appreciate you being available today as the  
4 face of Swift and the voice of Swift.

5 Your counsel will instruct you on reading and  
6 waiving.

7 MR. FOSTER: Okay. Thank you.

8 MR. DOOLEY: But I'll --

9 MR. FOSTER: Go ahead, Matt.

10 MR. DOOLEY: But, Brian, before you do that,  
11 I just want to make sure we do have clarity that we're  
12 adjourning this deposition with respect to the topics  
13 that we've agreed upon prior to joining together  
14 today. It by no means constitutes a waiver of our  
15 right to seek to depose Ms. Cordova, or whoever else is  
16 designated as Swift's corporate representative, on the  
17 remaining topics that we're still fighting about.

18 MR. FOSTER: Yeah, we understand that you may  
19 seek to do that. And you, by the same token,  
20 understand that we will, indeed, oppose that. So,  
21 again, I'm not sure that we need to make a record on  
22 that.

23 But with that having been said, my client  
24 will read and sign.

25 MR. DOOLEY: Thanks, Brian. You guys have a

1 great day.

2 MR. FOSTER: Hey, you, too. Thank you.

3 MR. DOOLEY: Bye-bye.

4 (12:28 p.m.)

5

6 \_\_\_\_\_  
30 (b) (6) REPRESENTATIVE MICHELLE CORDOVA

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1 STATE OF ARIZONA )  
2 ) ss.  
3 COUNTY OF MARICOPA )

4 C E R T I F I C A T E

5 BE IT KNOWN that the foregoing deposition  
6 was taken before me, WANDA J. CURRY, a Certified Court  
7 Reporter, Certificate No. 50366, in and for the State  
8 of Arizona; that the witness before testifying was duly  
9 sworn by me to testify to the whole truth; that the  
10 questions propounded by counsel and the answers of the  
11 witness thereto were duly taken down by me in shorthand  
12 and thereafter reduced to computer print under my  
13 direction; that pursuant to request, notification was  
14 provided that the deposition was available for review  
15 and signature; that the foregoing 67 pages are a true  
16 and correct transcript of all proceedings had upon the  
17 taking of said deposition, all done to the best of my  
18 skill and ability.

19 I FURTHER CERTIFY that I am not related to  
20 nor employed by any of the parties hereto, and have no  
21 interest in the outcome.

22 DATED at Phoenix, Arizona, this 16th day  
23 of September, 2012.

24 -----  
25 Wanda J. Curry  
Certified Court Reporter  
Certificate No. 50366